

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF MENDOCINO**

In Re:

**COURT APPOINTED ATTORNEYS
AND INVESTIGATOR FEES FOR CRIMINAL
AND JUVENILE DELINQUENCY
PROCEEDINGS**

**STANDING ORDER
2022-03**

_____/

WHEREAS, Penal Code section 987.2 authorizes the Court to appoint counsel for indigent defendants in criminal proceedings and juveniles in delinquency proceedings;

WHEREAS, Penal Code section 987.2 further authorizes the Court to determine a rate of reasonable compensation for such representation;

WHEREAS, the rates paid in Mendocino County are no longer competitive with the rates paid in adjoining counties, creating a scarcity of qualified attorneys and investigators to take appointments in these cases;

WHEREAS, the compensation rates for attorneys appointed in criminal and juvenile delinquency cases and investigators appointed in these matters has not been increased in more than ten years;

NOW THEREFORE, the Court orders the following new rates and billing processes and requirements to become effective January 1, 2022.

ATTORNEYS:

The following sets forth the process by which attorneys may submit billings pertaining to court appointments and fees allowable for such appointments.

Standard Billing Process for All Attorneys

The court will allow attorney's fees and costs for services rendered and expenditures made by counsel properly appointed while such matters are pending before the court. Such appointment orders must be made before an attorney may begin billing for services and other costs pertaining to the appointment.

Application for the payment of such fees and costs in misdemeanor or delinquency proceedings will ordinarily be made at the time of the final court disposition of the proceeding in which court appointed counsel served, but in no event will such application be presented more than 60 days thereafter. The court reserves the right to reject any invoice presented for payment more than 60 days after the disposition of the case.

Pretrial interim application for fees may be made in cases involving the death penalty or life without the possibility of parole, or in exceptionally complex or lengthy cases upon request by appointed counsel. No pretrial interim authorization for fees will exceed the sum of \$3,000 per month, plus expenses, for lead counsel and \$1,500 per month, plus expenses, for associate counsel.

If an attorney believes that the case is of such a special or unusual nature that it is not possible to render services in accordance with the maximum fee schedule, he/she must file a declaration explaining why an exception to the maximum fee is sought. Upon review of such written declaration, a reasonable fee in excess of the limits set forth in this schedule may be established by the judge presiding in the case.

Except as set forth in paragraph below, attorneys will not receive extra compensation for normal operating expenses such as mileage, photocopies, and long-distance phone calls; extra compensation will be allowed for such expenses as fees for investigators and expert witnesses in accordance with these rules.

In the event that an appointed attorney must appear in the court of another county on a case transferred from this court, the attorney will be entitled to reasonable travel and lodging expenses necessarily incurred in connection with his/her appearance in the court of the other county. The attorney will be reimbursed for necessary mileage and lodging at the rate allowed by the Judicial Council of California. In no event will the attorney seek payment of fees for travel time.

Application for fees and costs must be completed on Claim Form (MMC-131) itemizing the legal services rendered, the amount of time for such services, and any expenses incurred. Application for fees and costs must be submitted to the court for subsequent approval by the judge presiding in the case.

Any requests for reimbursement of travel or lodging must be made by written declaration. All requests for such reimbursement must include itemized expenses with all applicable receipts attached. Travel expenses must be pre-approved by the judge presiding in the case.

Criminal and Juvenile (Welfare & Institutions § 602) Attorney Appointments: Once approved by the judge presiding in the case, indigent defense costs in all criminal and juvenile (W&I § 602) matters are submitted to the County of Mendocino for payment, including all costs pertaining to the Office of the Public Defender and the Office of the Alternate Defender.

Criminal and Juvenile Justice Case Classifications	
Class 1:	All homicides, whether capital or non-capital, and all offenses having a maximum sentence of life without possibility of parole, or in the discretion of the court, an aggregate state prison sentence of 25 years or more.
Class 2:	All crimes for which the upper term of punishment is four (4) years or more, but less than Class 1.
Class 3:	All other felonies, misdemeanors, and all juvenile justice matters.

Minimum Experience Requirements for Attorneys Appointed in Criminal and Juvenile (W&I § 602) Matters	
Class 1:	Certified criminal law specialist or equivalent.
Class 2:	Five (5) years' experience as an attorney, with a substantial part of such experience in criminal law.
Class 3:	An attorney may be eligible for this class by providing oral or written proof of relevant experience and upon authorization of the judge presiding in the case.

All criminal and juvenile (W&I § 602) attorneys must agree to handle all cases to which they are appointed at the rates established by the court. The court will periodically review and adjust rates as necessary.

Fee Schedule:	
Class 1:	The rate will be \$120.00 per hour, unless otherwise determined on a case-by-case basis.
Class 2:	The rate will be \$95.00 per hour.
Class 3:	The rate will be \$80.00 per hour.

Order for Payment. Before any order for the payment of fees is made by the court, the attorney must provide proof of service that all parties entitled to notice have been given notice of the fee application.

INVESTIGATORS:

Ancillary Funding Requests. All Ancillary funding requests for investigation fees and expenses must be made in writing by the assigned counsel and submitted to the court for review and authorization by the presiding judge or his/her designee.

Order of Appointment. Orders appointing an investigator must provide a blank space for the judge to insert a dollar limit for the services to be provided.

Maximum Amount of Fees in Initial Application	
Cases Other Than Capital or Life Sentence Cases:	The initial application must not exceed the sum of \$3,000. Additional applications may be made upon a showing that further investigation is necessary in an amount not to exceed \$2,000 per application.
Capital and Life Sentence Cases:	The initial application for capital and life sentence cases must not exceed \$5,000. Additional application may be made upon a showing that further investigation is necessary in an amount not to exceed \$3,000 per application.

Maximum Amount of Fees in Initial Application	
All Cases:	In no event will the court grant fees, or expenses not reasonably justified by the nature of the case as supported by written declaration by the assigned counsel. The declaration must specify the nature and purpose of the proposed investigation and must contain an estimate of the fees and expenses involved. The court will consider payment for reasonable time spent in writing reports.

Further Authorization of Fees. If the authorization is reached, further judicial authorization must be obtained before additional billings may be submitted. Requests for additional investigative time must be accompanied by a detailed statement of the work performed up to that time. This detailed statement will not be treated as a request for payment unless the court has granted authorization for such billings.

License. Upon request, investigators will provide the court with a copy of a valid investigator's license.

Hourly Rates. Investigator fees will be paid at \$65.00 per hour.
Reimbursement for copies of discovery and motions is not permitted.

The court will not approve payment for excessive time spent in conference with attorneys, experts or the defendant. The billing must set forth a detailed explanation of the need for such conference time before the court will consider payment.

This standing order shall expire on December 31, 2022.

Dated: 1-4-22



JEANINE B. NADEL
Presiding Judge of the Superior Court